

REMARKS/ARGUMENTS

This application has been carefully reviewed in view of the Office Action dated February 8, 2007. Claims 1, 5, 6, 8, 11, 12, 14, 15, 18, 19, and 22 are pending. Claims 2-4, 7, 9, 10, 13, 16, 17, 20, and 21 remain withdrawn from consideration. Claims 1, 5, 6, 8, 11, 12, 14, 15, 18, 19, and 22 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 1,045,984 to King.

For the reasons stated below, it is believed that the amendments to all independent claims 1, 8, 14, and 22 distinguish over King and therefore all pending claims are in condition for allowance. Independent claims 1, 8, 14, and 22 now include the limitation that the shim must extend the width of the wooden member support to prevent longitudinal movement of the shim relative to the wooden member. King does not disclose this limitation. Furthermore, inclusion of this limitation in King would render the wedge mechanism of King inoperable.

King discloses a wedge mechanism wherein a lower wedge member 5 rests upon a support 7. The lower wedge member 5 is slidingly engaged with an upper wedge member 6 via a set of grooves 12 and 13 that run longitudinally along the length of the wedge members. The grooves 12 and 13 facilitate longitudinal movement along the inclined surfaces of the wedge members 5 and 6 via a bolt 11 and spiral spring 18. As stated in the Office Action, the lower wedge member 5 and the upper wedge member 6 form a "shim device [that] ... automatically expands to fill the space between the support 7 and timber 8". This necessarily requires that the top surface of the upper wedge member 6 slide longitudinally along the bottom surface of the otherwise stationary timber 8. This longitudinal sliding movement is necessary for the upper wedge member 6 to maintain contact with the timber 8.

Independent claims 1, 8, 14 and 22 are now amended to include the limitation that the shim extend the width of the wooden member support to prevent longitudinal movement of the shim relative to the wooden member. This limitation is clearly shown in the elected species of FIGS. 11-13. The shim 32, as specifically illustrated in FIGS. 12 and 13, abuts the interior of the joist hanger 20. Accordingly, longitudinal movement of the shim 32 is blocked by the interior of the joist hanger 20 as the shim 32 extends the width thereof. The King shim does not and can not extend the width of the wooden member support and requires longitudinal movement of the shim relative to the wooden member. The King shim expands vertically by sliding the upper wedge member 6 longitudinally along the inclined surface relative to the stationary lower wedge member 5. This is the only way for the King shim to maintain contact with the wooden member. To prevent longitudinal movement of the upper wedge member 6 relative to the timber 8, as now recited in the claims, would render King inoperable. Hence, King fails to recite each and every claim limitation of independent claims 1, 8, 14, and 22.

King also teaches away from a shim that extends the width of the wooden member support to prevent longitudinal movement of the shim relative to the wooden member. The King shim cannot extend the width of the wooden member because a gap on either side of the wedge members 5 or 6 must exist to enable the longitudinal sliding movement therein. A King shim that extends the width of the wooden member support necessarily requires that each respective side of wedge members 5 and 6 abut the interior walls of the wooden member support. In this configuration, the shim is longitudinally locked. No movement of the upper wedge member 6 relative to the lower wedge member 5 is permitted. As the gap between the support 7 and the timber 8 increases, the shim cannot shift longitudinally along the inclined surface to expand vertically in

order to maintain contact with the wooden member. Thus, the King shim would no longer support the wooden member as required by independent claims 1, 8, 14, and 22.

Accordingly, King cannot be cited in combination with other prior art references for the notion that the currently amended claims are obvious under 35 USC §103. The longitudinal sliding operation of the King wedge members 5 and 6 specifically teaches away from the current amendment. Preventing the longitudinal movement as claimed simply renders King inoperable, as already described. Therefore, there is no motivation or suggestion to combine King with a shim device that prevents such longitudinal movement. An obviousness rejection thereto would be inappropriate.

The amendments to all independent claims 1, 8, 14, and 22 now recite limitations not disclosed in King. Therefore, King no longer anticipates any of pending claims 1, 5, 6, 8, 11, 12, 14, 15, 18, 19, or 22 under 35 USC §102(b). Reconsideration is respectfully requested.

Respectfully submitted,

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